

IN THE CIRCUIT COURT OF SHELBY COUNTY, MISSOURI
CIRCUIT DIVISION

DARK HORSE MEDICINALS MISSOURI, LLC)	
)	
Plaintiff,)	
)	
v.)	Cause No. _____
)	
DELTA EXTRACTION, LLC; SLCC, LLC;)	
MWM INDUSTRIES LLC d/b/a MIDWEST)	
MAGIC CANNABIS COMPANY;)	
JACK MARITZ; CONTE ENTERPRISE)	
LLC and JOHN DOES 1-10.)	
)	
Defendants.)	

PETITION

Comes now, Plaintiff Dark Horse Medicinals Missouri, LLC (“Dark Horse”), by and through the undersigned counsel, and for its Petition, states to wit:

NATURE OF ACTION

1. This action is to recover damages after Defendants Deltra Extraction, LLC, SLCC, LLC, MWM Industries, LLC d/b/a Magic Cannabis Company, Jack Maritz, Conte Enterprise LLC, and others not known to Plaintiff (“Defendants”), sold to Dark Horse a certain distillate product that may be unusable in the State of Missouri. Dark Horse would not have purchased the distillate from Defendants if the distillate could not be used or sold in Missouri. Defendants knew of this fact and, upon information and belief, the individuals named as defendants engaged in a concerted effort to keep this material fact hidden from Dark Horse.

2. Not knowing that the distillate was unusable in Missouri, Dark Horse purchased the distillate for nearly \$325,000. Dark Horse then infused the distillate with other goods to make various marijuana products. The State of Missouri has put those medical marijuana products on

hold, prohibiting Dark Horse from selling or otherwise using the products. Dark Horse has invested considerable capital in these products. If Dark Horse is prohibited from selling or otherwise using these products, the financial consequences will be extreme.

PARTIES

3. Dark Horse Medicinals Missouri, LLC is a Missouri limited liability company with its principal place of business in Little Rock, Arkansas.

4. Upon information and belief, Delta Extraction, LLC is a Missouri limited liability company with its principal place of business in St. Louis, Missouri.

5. Upon information and belief, SLCC, LLC is a Missouri limited liability company with its principal place of business in Kansas City, Missouri.

6. Upon information and belief, MWM Industries LLC is a Missouri limited liability company with its principal place of business in St. Louis, Missouri. MWM Industries, LLC operates and does business as Midwest Magic Cannabis Company.

7. Upon information and belief, Jack Maritz is a resident and citizen of the State of Missouri. Jack Maritz is a co-founder and co-owner of MWM Industries LLC.

8. Upon information and belief, Conte Enterprise LLC is an Oklahoma limited liability company with its principal place of business in Oklahoma.

9. Upon information and belief, at all relevant times herein, Jack Martiz was acting as an agent of Delta Extraction, LLC, SLCC, LLC, MWM Industries, LLC, and Conte Enterprise LLC.

JURISDICTION AND VENUE

10. This court has original jurisdiction over this matter pursuant to Mo. Ann. Stat § 506.500.

11. Venue is proper in Shelby County, Missouri pursuant to Mo. Ann. Stat. § 508.010.

BACKGROUND

12. In or around early 2023, Dark Horse began the process to acquire the processing licensed owned by SMA Manufacturing, LLC. As part of that process, Dark Horse and SMA Manufacturing, LLC entered into a management agreement by which Dark Horse effectively managed all aspects of SMA Manufacturing, LLC's operations. This management agreement was filed with the Missouri Department of Health and Senior Services.

13. By virtue of this agreement, Dark Horse has a concrete and equitable interest in the business operation and financial success of SMA Manufacturing, LLC.

14. Among other entities, Dark Horse manages and operates Coco Labs, an infused product manufacturing facility in Clarence, Missouri, pursuant to this agreement.

15. In May 2023, Dark Horse, through Coco Labs, was in the market to purchase distillate to infuse into its various medical marijuana products. Distillate is one of a handful of ingredients that processors like Coco Labs infuse into medical marijuana products. In other words, distillate is one ingredient of the final product.

16. This endeavor eventually led Dark Horse, through Coco Labs, to Jack Maritz of Midwest Magic Cannabis. Dark Horse learned that Maritz—or the company and/or companies that he worked for—had distillate for sale.

17. This particular kind of distillate was manufactured by Conte Enterprise LLC, an Oklahoma medical marijuana company. Upon information and belief, Conte is and/or was operating at Separate Defendant Delta Extraction's facility under Delta Extraction's Missouri license.

18. Dark Horse requested a copy of the Certificate of Analysis (“COA”) to confirm that the distillate met Missouri’s regulatory requirements and could be infused into Dark Horse’s products for use and sale in Missouri.

19. Dark Horse made clear that it would not purchase the distillate product without a COA showing the product conformed with Missouri’s regulatory requirements and specifications. Upon information and belief, Jack Maritz knew that Dark Horse required this information and agreed to obtain and send to Dark Horse a COA.

20. Dark Horse would not have even considered purchasing the distillate without a valid COA from a Missouri licensed testing facility demonstrating acceptable results for cannabis products in Missouri.

21. On May 12, 2023, Jack Maritz sent the COA to Craig Smith of Coco Labs and Casey Flippo of Dark Horse. A true and correct copy of COA is attached as **Exhibit A**.

22. Jack Maritz sent the COA from a Midwest Magic email address: “jack.maritz@midwest-magic.com.” But the COA identifies the client as “Delta Extraction.”

23. The COA was performed by Green Precisions Analysis, which is one of the top testing laboratories in Missouri.

24. The batch of distillate met regulatory standards for cannabis products in Missouri.

25. After receiving the COA that appeared to reflect the distillate could be used or sold in Missouri, Dark Horse, through Coco Labs, agreed to purchase approximately 20 kilograms of distillate from Jack Maritz and the company and/or companies that he worked for or on behalf of.

26. Jack Maritz—again from his Midwest Magic email address—sent an invoice and wiring instructions to Mr. Smith and Mr. Flippo. A true and correct copy of the email, invoice, and wiring instructions are attached together as **Exhibit B**.

27. The subject line of Jack Maritz's email read "Delta Extraction Distillate Invoice and Wire instructions." Although Delta Extraction, LLC signed the invoice and was named in the subject line of the email, the invoice instructed payment to be made to "SLCC."

28. According to the wiring instructions, SLCC was the beneficiary of the bank account to which Dark Horse was to send payment.

29. According to the Transportation Manifest, the distillate was shipped from SLCC, LLC.¹ A true and correct copy of the Transportation Manifest is attached as **Exhibit C**.

30. Believing that the product complied with Missouri medical marijuana laws and regulations, Dark Horse paid \$323,632.00 for the distillate.

31. Dark Horse would not have purchased the distillate if it was not in compliance with Missouri marijuana laws and regulations, and could not be used or sold in Missouri.

32. After receiving the distillate, Dark Horse began processing it into various medical marijuana products. To do so, Dark Horse infused the raw distillate with other raw products, which, in turn, created the end product.

33. On August 2, 2023, Dark Horse learned that the Department of Health and Senior Services put certain of Dark Horse's product on administrative hold, preventing Dark Horse from selling it.

34. Dark Horse immediately commenced an internal investigation of the product that was put on hold.

¹ The invoice, manifest, and wiring instructions each list a different address for SLCC, LLC.

35. Dark Horse’s investigation revealed a common denominator—each product on “hold” had in it the distillate purchased from Jack Maritz and the company and/or companies he was working for or on behalf of.

36. Upon information and belief, some of the distillate Defendants sold in Missouri was unlawfully sourced or derived.

37. Discovery is likely to uncover whether the specific batch of distillate Dark Horse purchased from Defendants was unlawfully sourced or derived.

38. Upon information and belief, if the specific batch of distillate Defendants sold to Dark Horse was unlawfully sourced or derived, then any product that was derived from or contains that distillate cannot be sold in Missouri. In other words, any end-product that contains distillate that was unlawfully sourced or derived is fruit of the poisonous tree.

39. Upon information and belief, Defendants have extensive experience in the cannabis market and are sophisticated and knowledgeable about Missouri’s medical marijuana regulations and requirements.

40. Upon information and belief, Defendants understand how to lawfully source and derive cannabinoid products so that they can be used and infused into processed medical marijuana products that can then be sold or used in Missouri.

41. Upon information and belief, Defendants knew or should have known that the distillate being sold to Dark Horse did not meet Missouri’s regulatory requirements and could not be sold or used in Missouri.

42. Dark Horse had no reason to know the distillate being sold to it did not meet Missouri’s regulatory requirements and could not be sold or used in Missouri.

43. Dark Horse would not have purchased the distillate from Defendants had it known the distillate could not be used or sold in Missouri.

44. Indeed, the distillate was always going to be infused with other products to create a final end-product.

45. If the distillate cannot be used or sold in Missouri, then Dark Horse has lost (1) the distillate it purchased; (2) the other products it infused with the distillate; and (3) the end-product.

46. Given the significant potential harm, Dark Horse is careful to only purchase products and materials that are in compliance with Missouri's regulatory requirements.

47. It is for this reason that Dark Horse required a COA from Defendants—to ensure the distillate could be used or sold in Missouri.

48. This was indisputably a material term of the parties' agreement.

49. Indeed, no person or entity involved in the medical marijuana business would purchase distillate that could not be used or sold in Missouri. This is common sense in the industry.

50. Upon information and belief, and in light of the various entities and individuals that played a part in Dark Horse's purchase of the distillate, Defendants knew the distillate was unlawfully sourced or derived and could not be used or sold in Missouri.

51. Upon information and belief, despite this knowledge, Defendants, and others to be named later, conspired to facilitate the transaction with Dark Horse.

52. Upon information and belief, Defendants knowingly and intentionally withheld from Dark Horse the fact that the distillate was unlawfully sourced or derived.

53. Upon information and belief, Defendants withheld this information because they knew Dark Horse would not have purchased the distillate if it knew the products could not be sold or used in Missouri.

54. The medical marijuana products Dark Horse processed using Defendants’ distillate have a present-day market value of over \$1 million.

55. Dark Horse has invested significant capital in these products, which it now cannot sell to Missouri consumers because of the administrative hold.

56. On August 14, 2023, the Missouri Department of Health and Senior Services notified Dark Horse that the Missouri Division of Cannabis Regulation was issuing a “mandatory product recall” on Dark Horse’s products containing Defendants’ distillate. Dark Horse cannot use the products subject to the “mandatory product recall.”

57. Because these products are the subject of a “mandatory product recall,” Dark Horse has been damaged in the following ways:

- a. Dark Horse paid \$323,632.00 for distillate that it cannot use in Missouri;
- b. Dark Horse infused other valuable products with the distillate and has therefore lost the value of those other products; and
- c. Dark Horse lost profits on the products containing the distillate.

CAUSES OF ACTION

COUNT I – CONSTRUCTIVE FRAUD
(All Defendants)

58. Dark Horse adopts and incorporates by reference the allegations set forth in paragraphs 1-57 above.

59. Dark Horse purchased approximately 20 kilograms of distillate from Defendants.

60. Dark Horse would have purchased the distillate only if it conformed to Missouri’s regulatory requirements and could be used or sold in Missouri.

61. Upon information and belief, Defendants knew or should have known that Dark Horse would purchase the distillate only if it conformed to Missouri's regulatory requirements and could be used or sold in Missouri.

62. Upon information and belief, Defendants were in a superior position to know whether the distillate conformed to Missouri's regulatory requirements and could be sold or used in Missouri, as Defendants, and not Dark Horse, sourced and/or derived the distillate.

63. Upon information and belief, Defendants knew or should have known that the distillate did not conform to Missouri's regulatory requirements and could not be used or sold in Missouri.

64. Defendants, through Jack Maritz, remained silent and did not disclose to Dark Horse that the distillate did not conform to Missouri's regulatory requirements and could not be sold or used in Missouri.

65. This fact was not known by or reasonably discoverable to Dark Horse.

66. Dark Horse reasonably relied upon Defendants to disclose this superior knowledge.

67. Upon information and belief, Defendants' failure to disclose to Dark Horse that the distillate did not conform to Missouri's regulatory requirements and could not be used or sold in Missouri equates to a misrepresentation of material fact.

68. Upon information and belief, Dark Horse has been damaged by Defendants' failure to disclose this information by purchasing distillate that does not conform to Missouri's regulatory requirements and cannot be used or sold in Missouri.

69. Dark Horse seeks both actual, punitive, and special damages stemming from any failure by Defendants to disclose this information, in an amount to be proven at trial but in excess of the amount required for federal diversity jurisdiction.

COUNT II – BREACH OF CONTRACT
(All Defendants)

70. Dark Horse adopts and incorporates by reference the allegations set forth in paragraphs 1-69 above;

71. Dark Horse and Defendants entered into a contract for the purchase of certain distillate whereby Defendants agreed to sell 20 kilograms of distillate to Dark Horse in exchange for \$323,632.00.

72. It was a material term of the parties' contract that the distillate conform to Missouri's regulatory requirements and could be used or sold in Missouri.

73. The materiality of this term is evidenced by the fact that Dark Horse required a COA before it purchased the product from Defendants.

74. Dark Horse fulfilled its obligations required of it by the contract by remitting payment of \$323,632.00 to Defendants.

75. Upon information and belief, Defendants breached a material term of the parties' contract by delivering distillate that did not conform with Missouri's regulatory requirements and could not be used or sold in Missouri.

76. Upon information and belief, Dark Horse has been damaged by paying Defendants for a product that it cannot use or sell in Missouri.

77. Upon information and belief, Dark Horse's damages are a proximate consequence of Defendants' breach of their obligations under the parties' contract.

78. Dark Horse seeks its actual and consequential damages as a result of Defendants' breach in an amount to be proven at trial but in excess of the amount required for federal diversity jurisdiction.

COUNT III – BREACH OF IMPLIED WARRANTY
OF FITNESS FOR A PARTICULAR PURPOSE
(All Defendants)

79. Dark Horse adopts and incorporates by reference the allegations set forth in paragraphs 1-78 above.

80. Dark Horse and Defendants entered into a contract for the purchase of certain distillate whereby Defendants agreed to sell 20 kilograms of distillate to Dark Horse in exchange for \$323,632.00.

81. Upon information and belief, Defendants knew Dark Horse was purchasing this distillate product so that Dark Horse could infuse it with other products and process it into various medical marijuana products for sale in Missouri.

82. Upon information and belief, Defendants knew Dark Horse sought distillate product that conformed with Missouri's regulatory requirements and could be used or sold in Missouri.

83. Upon information and belief, Defendants knew that Dark Horse was relying on it to disclose whether the distillate product conformed with Missouri regulatory requirements and could be used or sold in Missouri.

84. Upon information and belief, the distillate product does not conform with Missouri's regulatory requirements and may not be lawfully sold or used in Missouri.

85. Dark Horse has been damaged because it purchased the distillate product for a particular purpose, which was known to Defendants, and it cannot use the distillate product for that intended purpose.

86. Dark Horse seeks its actual and consequential damages stemming from Defendants' actions in an amount to be proven at trial but in excess of the amount required for federal diversity jurisdiction.

COUNT IV – CIVIL CONSPIRACY
(All Defendants)

87. Dark Horse adopts and incorporates by reference the allegations set forth in paragraphs 1-86 above.

88. Upon information and belief, each named defendant (and others to be named at a later date) was part of the conspiracy to sell Dark Horse product that Dark Horse could not use in Missouri.

89. Upon information and belief, each named defendant (and others to be named later) sought to accomplish a common goal or purpose: to sell Dark Horse product that they knew Dark Horse could not use in Missouri in exchange for \$323,632.00.

90. Upon information and belief, each named defendant engaged in conduct that facilitated the transaction whereby Dark Horse purchased from Defendants certain distillate that it could not use in Missouri.

91. Dark Horse seeks its actual and consequential damages stemming from this common goal or purpose in an amount to be proven at trial but in excess of the amount required for federal diversity jurisdiction.

COUNT V - PIERCING OF THE CORPORATE VEIL
(John Does 1-10)

92. Dark Horse adopts and incorporates by reference the allegations set forth in paragraphs 1-91 above.

93. Upon information and belief, John Does 1-10 at all times controlled the policy and business practices of the defendant entities during the transaction between Dark Horse and Defendants such that the defendant entities had at no time a separate mind, will or existence of its own.

94. Upon information and belief, this control by John Does 1-10 was used to facilitate a fraud or wrong on Dark Horse and perpetuated a dishonest and unjust act in contravention of Dark Horse's legal rights.

95. Upon information and belief, the aforesaid control and breach of duty proximately caused Dark Horses damages.

96. Based on the foregoing, if true, the Court should pierce the corporate veil and submit each of John Does 1-10 personally liable for Dark Horse's damages.

97. Dark Horse requests a trial by jury on all issues.

WHEREFORE, Plaintiff Dark Horse Medicinals Missouri, LLC prays that the Court award the relief requested herein, award its costs and fees, and any other appropriate relief to which it may be entitled.

Respectfully submitted,

/s/ Ryan J. Smith

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